(a) whether it is obligatory on the part of Government to serve a charge-sheet upon its employee within 90 days from the date he is place under suspension;

(b) if so, the relevant provisions;

(c) the methodology of dealing with the erring Disciplinary Authorities;

(d) whether the charge-sheet lapses if it served after expiry of mandatory 90 days time; and

(e) if so, whether the departmental proceedings held, when charge-sheet is served after 90 days, are vitiated and ultra vires?

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRIMATI VASUNDHARA RAJE): (a) to (e) The existing instructions in the matter provide that every effort should be made to serve the charge-sheet on the government servant, within three months of the date of suspension, and in cases it is not possible to do so, the disciplinary authority should report the matter to the next higher authority explaining the reasons for the delay. These instructions are in the nature of guidelines and neither the charge-sheet lapses nor the departmental proceedings are vitiated where the time limit of 90 days is not adhered to.

Payment of subsistence allowance

†2025. SHRI ABDUL GAIYUR QURESHI: SHRI BRATIN SENGUPTA: SHRI VIJAY SINGH YADAV:

Will the PRIME MINISTER be pleased to state:

(a) whether payment of subsistence allowance to employees placed under suspension is obligatory on the part of Government;

---

†Original notice of the question was received in Hindi.

(b) if so, whether departmental enquiries can be held despite non-payment of subsistence allowance;

(c) if so, whether it is vitiated because of such an instance;

(d) whether Hon'ble Supreme Court has issued instructions in this regard; and

(e) if so, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRIMATI VASUNDHARA RAJE): (a) to (e) Fundamental Rule 53 provides that a Government Servant under suspension shall be entitled to the payment of a subsistence allowance. The payment of subsistence allowance is a sort of compulsory payment and cannot be denied on any ground except when the employee does not furnish a certificate that he is not engaged in any other employment, business, profession or vocation. In the case of Ghanshyam Das Srivastava Vs. State of Madhya Pradesh (AIR 1973 SC 1183), the Supreme Court had observed that where a Government Servant under suspension pleaded his inability to attend the enquiry on account of financial stringency caused by the non-payment of subsistence allowance to him, the proceedings conducted against him *ex-parte* would be in violation of the provisions of Article 311(2) of the Constitution as the person concerned did not receive a reasonable opportunity of defending himself in the disciplinary proceedings. In the light of the above mentioned judgement of the Supreme Court, Government have issued instructions prescribing that all concerned authorities should take prompt steps to ensure that after a Government Servant is placed under suspension he receives subsistence allowance without delay.